

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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357-359 SIXTH AVE. ASSOCIATES, LLC and :  
SENECA INSURANCE COMPANY, INC., :

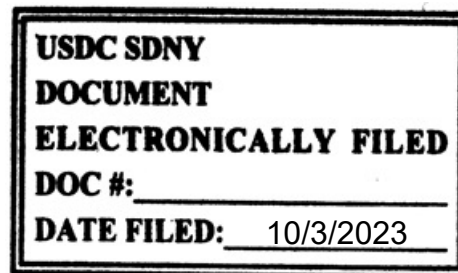
Plaintiffs, :

- against - :

UNITED STATES LIABILITY INSURANCE  
COMPANY, :

Defendant. :

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23-CV-00220 (JHR) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves Defendant USLIC's letter motion to compel production from Plaintiff Seneca of (1) the "Pacer Report," which the Court has reviewed in camera, and (2) the deposition of claim handler William Galasso. (See Dkt. 27.) USLIC objects to the Pacer Report based on work product protection, and the Galasso deposition primarily for lack of relevance as, USLIC says, there is no factual dispute and only a legal determination to be made in regard to this coverage matter. (See Dkt. 30.) The Court solicited and received a reply from USLIC (Dkt. 32) and held a conference to discuss the issue on October 3, 2023.

**Galasso Deposition:** The request is granted. USLIC may depose Mr. Galasso, the claims adjustor, who Seneca designated as a person with knowledge, and who has personal knowledge of the decision to tender coverage to USLIC. As to Seneca's objection to the notice of deposition based on form, the deposition notice shall be considered a notice for the deposition of Mr. Galasso as an individual, not as a 30(b)(6) representative. The deposition shall be taken no later than November 1, 2023.

**Pacer Report:** The request is granted. First, the report, including the witness statement and the investigator's summary of same, is entirely factual in nature and does not reflect the thoughts or impressions of counsel. Second, to the extent the report may be considered work product, USLIC has demonstrated the requisite need in that the Pacer Report constitutes evidence of the basis for Seneca's tendering of the claim to USLIC. Seneca shall produce the report no later than October 6, 2023.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: October 3, 2023  
New York, New York

Copies transmitted this date to all counsel of record.